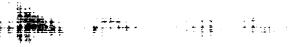


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POSSON 1450 P. 1450 P

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,320	03/31/2004	Paul Philip Brown	155-20	5169
22653	7590 11/03/2005		EXAMINER	
EDWARD W CALLAN			MIGGINS, MICHAEL C	
	NO. 705 PMB 452 3830 VALLEY CENTRE DRIVE		ART UNIT PAPER NUMB	
SAN DIEGO, CA 92130			1772	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

y		•				
	Application No.	Applicant(s)				
	10/814,320	BROWN ET AL.	•			
Office Action Summary	Examiner	Art Unit				
	Michael C. Miggins	1772				
The MAILING DATE of this communication ap Period for Reply	pears on the cover sh	eet with the correspondence ad	ldress			
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING Description of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. If NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMN 136(a). In no event, however, will apply and will expire SIX (e, cause the application to bec	MUNICATION. may a reply be timely filed 6) MONTHS from the mailing date of this come ABANDONED (35 U.S.C. § 133).				
Status	·					
1) Responsive to communication(s) filed on 28 J	luly 2005.					
2a) This action is FINAL . 2b) This	s action is non-final.					
3) Since this application is in condition for allowa	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under	Ex parte Quayle, 193	5 C.D. 11, 453 O.G. 213.				
Disposition of Claims						
 4) ☐ Claim(s) 1-27 is/are pending in the application 4a) Of the above claim(s) is/are withdra 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) 1-27 are subject to restriction and/or 	awn from consideratio					
Application Papers						
9) The specification is objected to by the Examina 10) The drawing(s) filed on is/are: a) accomplicant may not request that any objection to the Replacement drawing sheet(s) including the correct and the option of the correct of the option of	cepted or b) objected or by objected or by objected of objection of the drawing o	beyance. See 37 CFR 1.85(a). awing(s) is objected to. See 37 Cl				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documen 2. Certified copies of the priority documen 3. Copies of the certified copies of the priority application from the International Burea * See the attached detailed Office action for a list	ts have been received ts have been received prity documents have au (PCT Rule 17.2(a))	d. d in Application No been received in this National	Stage			
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08 Paper No(s)/Mail Date	Pap	rview Summary (PTO-413) er No(s)/Mail Date ice of Informal Patent Application (PT0 er:	O-152)			

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DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-9, drawn to a mold for injection molding, classified in class 249, subclass 126.
- II. Claims 10-18, drawn to a process of injection molding, classified in class 264, subclass 513.
- III. Claims 19-27, drawn to a nestable plastic product, classified in class 220, subclass 4.26.

The inventions are distinct, each from the other because of the following reasons:

- 2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as making two identical separate halves of a container to be later attached to one another at there openings to form the container. See MPEP § 806.05(d).
- 3. Inventions I and III are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a mold for injection molding of a nestable metal product and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should

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applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

- 4. Inventions II and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product could be made via extrusion molding or rotational molding.
- 5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
- 6. Because these inventions are distinct for the reasons given above and the search required for one group is not required for any other group, restriction for examination purposes as indicated is proper.
- 7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Miggins whose telephone number is 571-272-1494. The examiner can normally be reached on 1:00-10:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

> Michael C. Miggins **Primary Examiner**

Auchante for

Art Unit 1772

MCM

October 28, 2005